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[Document A.]

BY THE HOUSE OF DELEGATES,
JANUARY 11TH, 1876.

Read and ordered to be printed.
By order,

MILTON Y. KIDD,
Chief Clerk.

MESSAGE

OF

HIS EXCELLENCY,

Gov. Jas. B. Groome,

TO THE

GENERAL ASSEMBLY

OF

MARYLAND,

AT ITS

Regular Session, January, 1876.

ANNAPOLIS:
JOHN F. WILEY, STATE PRINTER.

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MESSAGE.

Gentlemen of the General Assembly of Maryland:

I welcome you in the name of your State to her Legislative Halls, in the confident expectation, that during the session upon which you have entered, you will perfect many measures which will promote her material prosperity and that of her people.

Finances of the State.

The full and detailed report of his proceedings, which the Comptroller of the Treasury is required to make direct to you, shows that the finances of the State are in a highly prosperous condition:

The receipts for the fiscal year, ending September 30th, 1875, were.....	$2,909,080 20
Balance in the Treasury September 30th, 1875	$565,106 59
Total.....	$3,474,186 79
The disbursements during the last fiscal year, were.....	$2,436,075 46
Leaving in the Treasury October 1st, 1875	$1,038,111 33
If from the total amount of disbursements the sum of	$394,148 31

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Which was transferred to the sinking fund, and then expended in the purchase for its benefit of stock and bonds, be deducted, the disbursements for all other purposes were	$2,141,827 15

Which is much less than the total of the disbursements during any recent year.

The aggregate debts of the State for which interest has to be provided, were, on September 30th, 1875	$11,372,677 28
The State holds as an off-set, as is shown by the Comptroller's Report, productive assets to the amount of.....	$6,068,509 35
Leaving the State debt over and above its productive assets	$5,304,167 93
To meet this excess of debts, the State has assets, at present unproductive, to the amount of.....	$22,555,188 75

Which is more than four times the amount which her debt is in excess of her productive assets. The sum of $20,941,748.21 of the unproductive assets is in the bonds, stock and interest of the Chesapeake and Ohio Canal. During the last seven years this Canal, which up to that time had done little more than pay the expenses, incident to working and keeping it in repair, has shown that under proper management, it can be depended upon to yield annually a large net revenue, to be applied towards the payment of its indebtedness. Within that period, its bonded debt to the amount of $1,530,668.38 has been liquidated from those revenues.

After the payment of the Preferred Construction Bonds, and their overdue and accruing coupons, the whole net revenues of the Canal, except $5,000 per annum to be

paid to the creditors of the Potomac Company, will, under a decision of the Court of Appeals, be applied to the payment of the State's claim, in preference to any other indebtedness of the Canal. This indebtedness, which has priority over the State's claim, consisted on the first of January, 1874, of

Principal of Preferred and Construction Bonds.....		$1,699,500
Over-due coupons from January 1st, 1859, to Jan. 1st, 1874, both inclusive.....		$1,580,535
Total of indebtedness, January 1st, 1874, having priority over the State's claim.....		$3,280,035
Since January 1st, 1874, four coupons have become due, amounting in the aggregate to.....	$203,940	
And eleven coupons have been paid off, amounting in the aggregate to.....	560,835	
Excess of coupons paid, over those which accrued, within two years.....		356,895
Showing that the total amount of principal and over-due coupons of Preferred and Construction Bonds, having priority over the State's claim, up to January 1st, 1876, has been reduced to.....		$2,923,140

Of which sum the over-due coupons make up $1,223,-640. If the payments should continue at the rate of five coupons a year, the entire amount of the over-due and accruing interest will be liquidated in eight years from this time. But, there is every reason to believe, that these coupons will be paid off even more rapidly, as the coal tonnage of the Canal has steadily increased from 258,-642 tons in 1864, to 904,564 in 1875, up to the eleventh of December. It should also not be overlooked, that the large net revenues for the year 1875 have been earned, notwithstanding the Canal at the opening of its business in the Spring, in order to compete with the Baltimore and Ohio Railroad, which had made a large reduction in its rates, was compelled to reduce its charges eleven and a-half cents per ton. But the Canal Company prior to making the reduction, had secured control of two of the wharves at Cumberland, which, in 1874, charged eight cents a ton for wharfage, but which it cost the Company but five cents a ton to operate, so that the actual rate of loss to the Company in making the reduction was only eight and a-half cents a ton.

The following table shows the increase and decrease in the receipts, expenditures and payments for 1874 and 1875—the receipts for 1875 being estimated in part.

	Gross Revenue.	Ordinary Expenses.	Betterments.
1874.	$517,412 22	$227,204 63	$34,546 67
1875.	473,166 50	225,722 13	27,604 98
Decrease....	44,245 72	1,482 50	6,941 69

TOLLS.

	Boat Toll.	Tolls on Cargo.	Wharfage at Cumberland.	Total.
1874	7 cts. a ton.	51 cts. a ton.	8 cts. a ton.	66 cts a ton.
1875	3½ cts. a ton.	46 cts. a ton.	5 cts. a ton.	54½ cts. a ton.
Decrease.	3½ cts.	5 cts	3 cts.	11½ cts.

When the over-due coupons are all liquidated, the principal of said bonds will, by the application of the Canal's net revenues, be rapidly paid off, after which the whole of these revenues (except the sum of $5,000 per annum as already stated) will flow into the State Treasury.

As it is safe to assume that with good management, the Canal's net revenues will steadily increase, the day when the State will receive large returns from her investments in this important work of public improvement is, perhaps, much nearer at hand than can now be safely assumed.

Since the end of the fiscal year, the Treasury Officers have transferred to London the sum of $380,098.52 to be applied towards the redemption of the bonds of the State, issued to the Susquehanna and Tidewater Canal Company, which have been due since 1865, and are payable in London. This course was made necessary by the fact that there was no considerable amount of the debt payable here which was due and could be called in, and the high price asked for the outstanding stock rendered the taking up of the sterling over due debt advisable. I would suggest the passage of a law requiring that the future accretions of the sinking fund be applied to the calling in of the residue of these over due Bonds.

There is due and payable here the sum of $7,200 of the Defence Loan issued under the Act of 1864, chapter 15, on which the interest was stopped on the first day of the present month of January.

The Bonds issued for the relief of the Southern States, amounting to $100,000 having been redeemed, and those issued for the erection of the State Normal School, amounting to $100,000, and for the erection of the State House of Correction, amounting to $250,000, having been purchased and now held by the sinking fund, I recommend that authority be given to the Treasurer to destroy said bonds by fire, and that no further taxes be levied on account of them.

Baltimore and Ohio Railroad.

Since the adjournment of the last Legislature, both of the cases between the State and the Baltimore and Ohio Railroad Company, which were then pending in the Supreme Court of the United States have been decided.

The case commonly known as the "Gold Case," was decided adversely to the State on November 16th, 1874. This suit was brought to recover the difference between the value of currency paid from July 1st, 1865, to January 1st, 1870, by the Company, by way of dividends on the State's Preferred Stock, and of gold in which the State claimed it was entitled to be paid. At the time the suit was brought in the Superior Court of Baltimore City, the Supreme Court of the United States had decided in the case of Hepburn vs. Griswold, 8 Wallace, 603, that the "Legal-Tender Act," so far as it applied to debts contracted before its passage, was unwarranted by the Constitution, and, "that all contracts made before February 25th, 1862, for the payment of money, not expressly stipulating otherwise, were in legal effect and contemplation contracts for the payment of coin, and under the Constitution, the parties to such contracts were respectively entitled to demand, and bound to pay the sums due, according to their

terms in coin, notwithstanding the Legal-Tender Acts." If this decision had been allowed to prevail, the final decision of the gold case must have been in favor of the State. But in Knox and Lee, and Parker and Davis, 12 Wallace, 457, a bare majority of the Supreme Court decided "that the legal-tender clause of the Acts referred to is constitutional, as well when applied to contracts made before, as those made since the passage of the Acts." Such being the case the State could not recover, notwithstanding it was the understanding of both parties at the time the contract between them was entered into that the payment of dividends to the State was to be in coin, *because there was no express stipulation* to that effect on the face of the contract.

The Maryland Court of Appeals in rendering its decision in this case, (36 Maryland, 544,) which was afterwards affirmed by the Supreme Court, declared:

"The defect in the contract now under consideration, tried by the law as it now exists, is, that it did not contemplate and provide for the present state of the Legal-Tender Law. At the period when this contract was made, it is not likely that it ever entered into the thoughts of the parties concerned, that any thing but gold and silver coin could ever be made a legal-tender for the discharge of contracts. It was, therefore, futile and utterly useless, viewing the matter from that period, and in the light of opinions then prevailing, to incorporate into the contract any such special obligation as that the dividend should be paid in gold. As the law then stood, it could be paid in that currency and none other, if the State thought proper to insist upon it. It is only by the operation and effect of the Legal-Tender Acts, recently declared constitutional by the Supreme Court, that the defendant is now exonerated from the liability supposed, at the date of the contract, to be immutable, to pay the guaranteed dividend in gold. If the law had been allowed to remain as it was declared to be by the decision in *Hepburn vs. Griswold*, 8 *Wall.*, 603, which was the law of the land at the time of the institution of this action, the defendant would have been bound to pay the dividend in gold."

And the Supreme Court of the United States in affirming the decision said—

"When it (the contract) was made, payment in coin was the only mode of payment, recognized by the law, and doubtless in this case, as in all other cases of promises to pay money made at that time, the expectation of the parties was, that the debt would be discharged in coin. So natural was this expectation that it was very rarely thought necessary to provide against the contingency of a debt, becoming payable with anything else than coin."

How very remote contracting parties had a right to believe that contingency to be, will be fully understood by you when you call to recollection the fact, that in 1819 the great Chief Justice Marshall delivered the opinion in the Supreme Court, in the case of Sturges vs. Crowinshield, 4 Wheaton, 122—205, in which that Court decided that "*Nothing but gold and silver coin can be made a tender in payment of debts,*" and that in the subsequent case of Gwin vs. Breedlove, reported in 2 Howard, 38, that Court declared that "By the Constitution of the United States, gold and silver coin, made current by law, can *only* be tendered in payment of debts."

So you will perceive that the decision against the State in this case was based upon the ground that although it was doubtless the belief and anticipation of both parties at the time of the statutory enactments which made up the contract between them, that the preferred dividend would be paid the State in gold, yet as the "Legal-Tender Acts" were not contemplated by either party at that time and no provision for them was introduced into the contract, their intentions or wishes had not taken a shape which rendered them enforceable by the Courts. Such being the case, the claim of the Company to be reimbursed by the State for moneys advanced by it to pay the interest due by the State in London on the State's sterling loan, is totally devoid of equity. Because the Company could not

be compelled, by reason of the interposition of the Legal-Tender Laws to carry out what was contemplated between the parties at the time the contract was entered into, it by no means follows, that when the Road did carry it out voluntarily, without being compelled, it can recover back the difference in value between the coin actually paid, and the paper money with which payment might have been made. On the contrary, the ruling against the State was one of strict law and against the understanding of the parties and the equity of the case, and it can never be construed as entitling the Road to repudiate what equity it has voluntarily done. I can hardly imagine that it will be seriously contended that a man who had borrowed money on mortgage before the passage of the Legal-Tender Act, and paid it off after that Act went into force in gold, not caring or thinking to take advantage of its provisions, could turn around and recover back upon learning afterwards that he could not have been forced to pay except in paper. It seems to me, therefore, too plain for argument, that the State's failure to recover what she sued for furnishes no reason why she ought equitably to refund what has been paid on her account in accordance with the original understanding.

On April 14th, 1873, the Counsel on behalf of the State filed in the Supreme Court their elaborate printed argument to sustain their motion to dismiss the writ of error to the Maryland Court of Appeals, in what is known as the "Capitation Tax case." This motion was held under advisement and not decided until January 11th, 1875, when the Supreme Court overruled it. Shortly after, the constitutional question was argued orally, and on May 3rd the decision was rendered affirming the judgment of the Court of Appeals, and the

constitutionality of the legislation which required the Washington Branch to pay one-fifth of its receipts from passenger fares to the State. The Company promptly, upon the announcement of this decision, paid into the State Treasury the sum of $424,229.81, which was the amount of the judgment so affirmed, with interest.

While this Capitation Tax case was pending in the Court, the Counsel for the State at regular intervals brought other suits against the Company, for the State's share of the passenger receipts of the Branch Road, since the date of bringing the last suit, and as soon as the decision of the Supreme Court in favor of the State was announced, these cases, involving the balances due to January 1st, 1875, were brought up on the docket of the Superior Court, and an effort made to secure their trial, but the Court at the request of the defendant, continued them, until the September term. In the meantime another case, embracing the amount due from January 1st to July 1st, 1875, was brought, and when all the cases were called at September Term, on the day appointed, they were removed to Howard county on the affidavit of one of the officers of the Company, that it could not have a fair and impartial trial in the Superior Court. Seven cases were thus removed.

The Counsel for the road have announced three new defenses.

1st. That the Legislature of Maryland had no right to receive any portion of the gross receipts upon that part of the Washington Branch Road, lying within the District of Columbia, and chartered by Congress.

2d. That the Branch Road on which the State has a right to receive a share of the gross passenger receipts

begins at the Relay House and not at Baltimore, as heretofore always conceded.

3d. That under the Act of 1831, chapter 330, section 8, the State reserved the power to incorporate another company only in case of the failure of the Baltimore and Ohio Railroad Company to complete its Branch Road within the time therein named, which was extended afterwards by the Act of 1832, chapter 75, section 12. The Company contends that as the road was finished within the time, as extended, the State had no power to incorporate another company, and was bound by an implied contract not to do so, which it has violated by incorporating the Potomac Railroad Company. The State, having as they contend, violated the contract, has no right to demand the consideration which the Company agreed to pay for the monopoly.

The limits within which this communication must necessarily be confined, forbid me to enter into an argument, to demonstrate what I believe to be the untenable character of these new defences, which the able Counsel of the Company, with all their learning and ingenuity failed to discover or lay stress upon until the State's right to one-fifth of the passenger receipts of the Washington Branch had once been unsuccessfully disputed on other grounds in the Supreme Court.

It is extremely desirable, both for the State and the Company, that all questions between them should be settled at this session of the Legislature. Thus far the conduct of the Company has not been such as I can commend. Its retention of money collected by it from passengers, and refusal to pay it over until compelled by the judgment of the Supreme Court; its present efforts to make that judgment ineffectual and futile, by raising fresh and extreme pretensions, when it professed to be only de-

sirous to secure the opinion of the Supreme Court on its constitutional claims under the Nevada case; its withholding of the very large amount which it now owes the State, and resorting to every means of postponement and delay; its refusal to file with the Comptroller, as required by law, statements showing its earnings from passenger fares; its late refusal to declare any dividend on the earnings of the Washington Branch, in order to punish the State for prosecuting its just claims,—all these acts are not such as to commend it to your favor and that of the people. But public policy requires that even just resentments should be pushed aside when there are large ends of State to be gained, and I therefore urge upon you to approach the consideration of the relations existing between the State and the Company in a spirit of wise moderation, and endeavor to ascertain whether it is not possible to remove the existing cause of difference and litigation, by some fair compromise, which, without sacrificing too far the rights and interests of the State and its tax payers, will yet deal liberally with its greatest work of internal improvement. The Company would certainly have much equity on its side in asking to be relieved from the contribution to the State of one-fifth of its passenger fares, while the rival company is free from that encumbrance, if it were not otherwise so largely a beneficiary of the State.

The exemption from taxation of its capital stock which the Court of Appeals, (6 Gill, 288) has held to protect its property also from both State and Municipal taxations has swollen now to dimensions never contemplated by either the Legislature or the Courts. It was granted in times when Corporations were confined within the limits of their peculiar franchises, and when it was never supposed that a power to build a Road from the Chesapeake to the

Ohio, involved the right to establish lines of steamers to Europe, buy railway tributaries as far out as the prairies, build and carry on hotels, docks and grain elevators, and construct workshops and carry on works embracing almost every branch of mechanical labor. I understand that the Company claims to have over twenty millions of surplus profits invested, over and above its capital, and it is not only freed from taxation upon wealth which affords a larger taxable basis than many of the counties of our State, but it is the rival in business of all classes of private citizens and Corporations which are taxed the full value of their possessions. That the Company can expect to have the passenger fares of the Washington Branch left to it, free from the State's claims, and yet make no surrender of any part of this enormous freedom from taxation passes belief. But if it should be reasonable and express its willingness to assume some proper portion of the public burdens, which every citizen and almost every Corporation has to bear, I would recommend that you deal liberally with it, and place it, as to the Washington Branch, upon a footing of equal competition with its rival. But you ought to be careful not to encourage by undue concessions that spirit of aggression on the part of Corporations, which has gone so far throughout the country to subordinate the interests and indeed the powers of the States and people to their gigantic servants.

The duties which have devolved upon the counsel of the State in the progress of the litigation between the State and the Company, have been extremely arduous and responsible. They tried the Gold Case twice, (once on a reargument and the Auditor's report,) in the Superior Court, and once in the Court of Appeals. They tried the Capitation Tax Case before the Superior Court, where the de-

cision was against the State; then they reversed that decision before the Court of Appeals; then they tried it again before the Superior Court when remanded, and then on printed notes a second time in the Court of Appeals. They have also brought seven other suits, besides those thus tried, and will have to go on bringing them semi-annually so long as these questions are unsettled between the State and the Company. New questions have been already raised which were never contemplated either by the Legislature, the Governor or the counsel at the time they were employed, and there is no knowing what amount of litigation is before them in the State Courts, as well as the Supreme Court, if no compromise be effected.

In the contract made between Governor Bowie and the counsel on behalf of the State, and afterwards recognized by the Legislature, it was expressly stipulated that the counsel were only to carry the cases through the State Courts for the compensation therein fixed, and that "should the said cases or any of them be carried to the Supreme Court of the United States, the said counsel are to receive for their services therein such further sum as the Legislature may deem proper."

The counsel have, as already stated, argued and gained the "Capitation Tax Case" in the Supreme Court, and thereby procured the payment of a very large sum into the State Treasury; and have twice argued the "Gold Case" therein, once on the motion to dismiss, and once on the constitutional question. All these arguments were very able and elaborate, as the printed statements of points sent me at the time demonstrated. It will remain for you at this session to make such appropriation to pay these counsel for their services in the Supreme Court, as in view of their eminent abilities and learning, the laborious and re-

sponsible duties discharged by them, and the results accomplished, may seem to you to be right and proper.

Maryland War Claim.

Hon. Daniel Clark and Sidney J. Wailes, Esq., Commissioners appointed by the Act of 1872, Chapter 262, to prosecute the claims of this State against the United States, under the provisions of the Act of Congress of July 27th, 1861, in November last, received from the United States and paid into the Treasury of the State the sum of $50,063.14. They had before received and paid over two instalments, together amounting to $8,757.07. There is still a considerable balance of the claim unadjusted.

Tax on Commissions.

By the Act of 1872, Chapter 350, a tax of ten dollars was imposed upon all commissions, issued to non-residents, to take acknowledgments of deeds, &c., to be used in this State. Since January 1st, 1874, the receipts into the Treasury from this tax have aggregated $830.00.

Assessment of Property.

A few days after the adjournment of the Legislature, very serious defects were discovered in the Act of 1874, Chapter 514, which was passed with a view to providing for the general valuation and assessment of the property of the State. The Comptroller of the Treasury and myself had a test case made up for the purpose of obtaining the opinion of the Court of Appeals as to the validity of that Act before the assessors appointed under its provisions should enter upon the active discharge of their duties. That Court decided that the Act was defective in many particulars, and could not be carried into execution. Its decision was, however, based largely upon the first section

of the Act, which declared that all the property in the State except that specially named in that section, should be *exempt from* taxation. It was evident that the Legislature intended to use the words *liable to* instead of *exempt from*, but as the words used were plain and unambiguous the Court declared that it had no power to correct, by construction, what it was sure was a legislative mistake.

In some sections of the State property has considerably enhanced in value since the present assessment was made, while there is reason to fear that in other sections its value has steadily depreciated. To equalize the burdens of State taxation you should provide by law for a general valuation and assessment of the property in the State.—No kind of property should be allowed to escape its fair share of taxation, except from obvious necessity or public policy, as the exemption of any description of property necessarily increases the burden of taxation placed upon the residue. There is no sound reason in theory why the holders of mortgages should not be compelled to pay the same rate of taxation upon them as is levied upon their other property. But in practice, it has been found that the mortgagee always succeeds, directly or indirectly, in shifting the burden of this taxation upon the mortgagor. Unless, in your wisdom, you can so contrive a law as to prevent this result, mortgages ought to be exempted from taxation. It is a necessary hardship that persons who are heavily in debt must be required to pay taxes on the whole amount of property in their possession, but to compel them to pay still another tax on the amount of their indebtedness is clearly unjust. Public policy may suggest the exemption of a limited amount of the property of Churches and certain Benevolent Institutions; and of a

few other descriptions of unproductive property not held as investments for capital. But the nearer you can come, without violating public policy or the plighted faith of the State to the literal enforcement of the doctrine contained in the Declaration of Rights that "every person in the State, or person holding property therein, ought to contribute his proportion of public taxes for the support of the Government, according to his actual worth in real or personal property," the closer will any assessment law enacted by you approach perfection.

Weighmaster of Live Stock.

Since the close of the fiscal year the Weigher of Live Stock in the city of Baltimore has accounted with the Comptroller for the revenue due the State up to the end of last quarter. The bond prescribed for this office is insufficient, and the provisions of law are loose, so far as the returns of the moneys of the State are concerned.—The penalty of the bond should be increased, the condition of the bond should be changed so as to make it more explicit, and penalties ought to be enacted so as to enforce the making of the proper returns of the revenue.

State Hay Scale Lot.

By virtue of the authority vested in me by Chapter 309, of the Laws of 1874, I sold to the Mayor and City Council of Baltimore, as much of the front portion of the State's lot as the intersection of Fremont and Chatsworth streets, and known as the Hay Scales Lot, as they required for the erection of an Engine-House. It was agreed between us that the city should pay to the State $2,500, and should erect for the use of the State on the part of the lot retained by it a new set of scales, and an officer for the keeper. The office and scales have been erected, and it is

expected that the transaction will be closed within a few days, by the payment of the purchase money, and the delivery of the deed. The portion of the lot retained by the State, is ample for the use of the Hay Scales.

Executive Contingent Fund.

I respectfully request the appointment of a Committee to examine the accounts which are ready for inspection for the disbursements of the Executive Contingent Fund for the years 1874 and 1875.

The Election of Attorney General.

On the seventeenth of November, I received from S. Teackle Wallis, Esq., a communication, notifying me that he contested "the election of Charles J. M. Gwinn, Esq., as Attorney General of the State at the election held on the 2nd of November last," and that he insisted "that the election in the city of Baltimore was rendered wholly void by fraud, intimidation and violence and that the returns of the city could not be lawfully counted." Two days later, I notified Messrs. Wallis and Gwinn, that on the Wednesday following, I would be pleased to receive from each of them written arguments upon the question, whether or not, I could entertain the proposed contest, and, if I could, as to the extent of my powers in regard thereto, and the mode in which I should proceed to exercise them. I further notified them, that at that time, I would be prepared to hear from either party, or his attorney, an oral reply to the argument filed by the other side. On that day written arguments were filed with me by each party, and oral arguments made before me by their respective attorneys, upon the points suggested in my letter. At the conclusion of these arguments, being still in doubt as to the extent of my powers, I held the matter

under advisement. After the most careful consideration I could give to the questions involved, in the midst of the multiplicity of duties which demand the attention of a State Executive during the closing weeks of his term, I was still in doubt, whether or not I possessed the power to go behind the returns. I felt, as the Constitution made it my duty "to decide upon the election and qualification of the person returned," that it ought to have clothed me with every power necessary to enable me to ascertain the true character of the election under which the "person returned" claimed to have been chosen; but I was not clear that it had done so. I felt that on the one hand, the Executive of a State ought not to arrogate to himself doubtful powers and on the other that he ought not to refuse to examine into any charge, emanating from any responsible source, that the purity of the ballot-box had been assailed and the freedom of election destroyed, if he had the right under the law to make such investigation. I therefore determined upon a course which would fully protect the respective rights of each party, and enable the highest judicial tribunal of the State, to whose decisions every good citizen bows with respect, promptly to pass upon the extent of my powers.

Both parties and their respective Attorneys having been notified to be present at the Executive Chamber, at noon, on the 6th of December, I then and there announced that I had canvassed the returns and that, according thereto, the Hon. Charles J. M. Gwinn received a majority of all the votes of the qualified voters of this State, cast at said election and was, *according to said returns*, elected Attorney General of the State. His qualifications not being disputed, I further decided that he was eligible to that office. I further announced as a part of my decision that the same as to the fact of election was made exclusive-

ly on the basis of said returns, and without any inquiry upon any alleged fact outside of the same and that inasmuch as there appeared sufficient reason to induce a hearing outside of the returns, if I had the power under the Constitution to grant such hearing, I would proceed with a hearing and examination of the questions involved in the contest, by evidence extraneous to the returns, unless restrained by the Court, or unless ordered by mandamus to issue a commission to Mr. Gwinn. Mr. Gwinn promptly applied for a mandamus to compel me to issue to him a commission, and a *pro forma* judgment was entered below, and an appeal taken to the Court of Appeals where the case was fully argued. On the twenty-first of December, the Court announced that on the facts stated in the Petition and Answer, the Judges were unanimously of the opinion that Mr. Gwinn was entitled to receive his commission as Attorney General and take the oath of office: and further that under the Constitution and existing laws, the Governor has not the power to enter upon the examination, or try and decide the contest therein referred to. In obedience to this decision, I have issued a commission to Mr. Gwinn and administered to him the oath of office as Attorney General.

The result of this controversy demonstrates that some action on your part is necessary; but whether it should be by legislation in aid of the Constitutional provision, or by proposing a Constitutional Amendment will not clearly appear until the Court has filed its formal opinion. As yet it has only announced the conclusions which it reached.

When this controversy was put in such shape that it must go to the Courts for adjudication, it became necessary for me to call in the service of counsel to represent me. I could not but realize that the case to be made, though nominally between Mr. Gwinn and myself in my official

capacity, would practically bring about an adjudication of Mr. Wallis' rights. I felt, therefore, that the situation required that I should be represented by counsel, who possessed the confidence of Mr. Wallis and of that large body of citizens whose chosen representative he was, and is, if such counsel would, under my instructions, waiving all technical points, join with the counsel of Mr. Gwinn in the endeavor to secure a prompt adjudication of the real questions at issue. I accordingly requested Alexander B. Hagner, Esq., who had originally acted for Mr. Wallis, and whose thorough prior examination of the questions involved, was a guarantee that he could proceed without delay, to act as my counsel, subject to certain instructions which I gave, and which were intended to secure the result actually accomplished, a speedy decision upon the question of power really in controversy. I knew that this selection of counsel would be misunderstood by many, and would bring upon me their temporary censure, but I knew, under the peculiar circumstances, that it was eminently the proper one to make, and I made it.

Mr. Hagner accepted the appointment, and discharged his duties as counsel with marked ability, and to my entire satisfaction. It remains for you to award to him such compensation as in view of his high rank as a lawyer, and the importance of the questions involved, you shall consider an equivalent for the services rendered. It seems to me also proper, as the right was decided to be with Mr. Gwinn, that you should allow reasonable counsel fees to the gentlemen representing him in the controversy.

The Registration and Election Laws.

It is charged by a portion of the people of Maryland that fraud, intimidation and violence prevailed to such an extent in the city of Baltimore, on the day of the last

State Election, that its result ought not to be accepted as an expression of the popular will. It is well known that election contests will come before you, in which you will be required to decide whether that election was valid or void. Such being the case it is manifestly improper for me to express my opinion to you on the question. Our present registration and election laws contain many wise and valuable provisions intended to prevent illegal voting and to secure the right of suffrage to every citizen possessing the constitutional qualifications. But as all will agree that our elections ought not only to be free and fair, but untainted with any suspicion of illegal or improper practices, it would be well for you carefully to revise those laws, with a view to placing around the ballot-box every safeguard that experience can suggest or ingenuity devise. Among other new provisions proper in my opinion to be incorporated in our election laws, permit me to suggest that the Board of Public Works be required to select and purchase at the cost of the State glass ballot-boxes of some uniform pattern sufficient in number to supply all the voting places in the State.—Some of these boxes are so constructed that their contents, which are fully exposed to view cannot be tampered with, except by destroying the boxes which are themselves very strong. Even this danger of the box being broken and the contents scattered might be guarded against by having placed within it a net work of fine, flexible wire, with the meshes of a size that would not obstruct the view of its contents, while it would prevent them from being scattered, if the box should in any way be destroyed. These boxes might, in the first place, be supplied at the cost of the State, to the city of Baltimore and the several counties, after which they should be re-

quired to provide them at their own cost. And if every voter were required to place his ballot in a white envelope and seal the same before delivering it to the Judges of Election, the voting of double tickets, except with the connivance of the Judges of Election, would be impossible. The Judges should also be required to make public announcement at the close of every hour during the polling time, and at the close of the polls, of the number of votes cast up to that time, and at the conclusion of the count should be required to make public declaration of the result and furnish the minority Judge a copy of the return sheet. The Judges of the Circuit Courts for the counties, and the Judge of some of the Courts of Baltimore city, should also be required, upon the petition of ten citizens, filed within two weeks before any election, alleging that fraud is apprehended at any voting place to appoint an equal number of inspectors from each of the political organizations contesting the election, and these inspectors ought to be entitled to be personally present in the room where the Judges are, at the polling place, from before the opening of the polls until after the close of the count.

I would also suggest that the Mayor and City Council of Baltimore be required before the first day of August next to make a new division of the city of Baltimore into twenty wards of contiguous and compact territory, and of as near as may be equal population, and to divide each of said wards into as many precincts as may be necessary to prevent any one of them from having more than four hundred voters therein. And as often as the Registry list shall show that any precinct contains more than that number of voters, the Mayor and City Council should be required within one year thereafter to di-

wide that precinct into two, or so re-divide the precincts of the ward that none of them shall exceed that number of voters. In case the Mayor and City Council should fail to re-divide the city by the time named, the Governor ought to be required to appoint three discreet persons to make and report such division to him for his approval or rejection, and upon his approving it he should be required by proclamation to announce the day when it shall go into effect.

Legislative Expenses.

Of late years the expenditures incident to a session of the General Assembly have steadily increased. At the last session they aggregated $191,152.67. The people of the State regard this sum as excessive and look to you to greatly curtail legislative expenses, during the session upon which you have just entered. To do this, you should employ no more subordinate officers, than are necessary for the proper dispatch of the business of the session, and should not pay them at excessive rates for the services required of them. A few of the principal officers, whose duties involve great responsibility and labor, can with propriety be paid a liberal *per diem*, but most of the employees of the two Houses, should receive a lesser *per diem*, than that fixed by the Constitution for the members of the Assembly. A law should be promptly passed limiting the number, fixing the compensation and defining the duties of the employees, of the respective Houses; and designating which of them shall return to aid in the organization of the next General Assembly, and providing for the payment to those so designated, who are not re-elected, of a reasonable number of days *per diem*, at the same rate as may be provided by said

law, for their respective offices; and that no other officers, of either House, shall be required to attend at the organization of the next ensuing General Assembly, or receive any compensation for so doing. This law should authorize the presiding officer, of either House, when, in his judgment, the work of the House over which he presides, cannot be performed in the time required by the regularly appointed officers of that House, to appoint an additional officer or officers *pro tempore*, or for the residue of the session, with the same compensation as is allowed by said law to officers with like duties, but should require such presiding officer without unnecessary delay to notify the body, over which he presides, of every such appointment and the time for which it is made, nor should any such additional officer be permitted to enter upon his duties, until such notification has been given, and his appointment confirmed by a vote of the body, for which he is appointed, and he should only be entitled to *per diem*, from the date of such confirmation of his appointment. It should also be made the duty of the Chief Clerk to notify the Comptroller of the name of every such additional employee, the date of his confirmation, and the rate of *per diem* he is entitled to receive. Under no circumstances should extra compensation be voted any employee of either House.

I have ventured to suggest the details of a law on this subject, because I am aware of the difficulty of preparing one which will not be so general in its provisions as to be easily evaded and practically worthless, or so stringent as to interfere with the proper dispatch of business and to lead to its repeal. I respectfully refer you to a bill introduced into the Senate at its last session by Senator Knight, which

while it does not go as far as I would like to see you go in the matter of reducing the number and compensation of the subordinate employees of the two Houses, embraces the details I have suggested, and will serve as a model of the legislation I recommend upon this subject.

But to reduce legislative expenses to their proper limits, it is also indispensable that some change be made in the manner of contracting for the Legislative printing. Printers cannot make the extensive and expensive preparations, which are necessary to enable them to do with dispatch and in a neat and workmanlike manner the large amount of printing required during a legislative session, unless they have some assurance beforehand that they will be able to secure the contract for the same. The result is, that there is no real competition under the present system for the printing, which is usually secured by one or more of the printing establishments, located at the seat of Government at rates which, it is generally believed, whether the work be done at a fixed price for the session, or by the piece, yield the contractors excessive profits. You will find it extremely difficult to contrive any legislation applicable to the present session, which will afford more than a partial remedy for this acknowledged evil. But looking to future results, I recommend the enactment of a law, specifying as nearly as may be the character and extent of the printing and binding to be done for the General Assembly and the several Departments of the State Government, the quality of the material to be used and the manner in which the printing must be executed, and fixing the *maximum* price to be paid therefor. This law should require the Board of Public Works to give notice by

advertisement, to be inserted once a week for one month before some day, to be named therein, not later than the tenth of September, eighteen hundred and seventy-seven, and in every second year thereafter, in at least two newspapers of large circulation, published in the City of Baltimore, that it will receive sealed proposals for furnishing the materials and executing the public printing and binding, for the term of two years, from the first day of December following, at a certain rate *per centum*, below the rates specified in the law. The law, should forbid the consideration of any proposal, unless accompanied by a bond to the State of Maryland, with at least two sufficient sureties in such penal sum as may be fixed by law, conditioned for the faithful performance of the work in the manner provided for by law, if awarded to the bidder making such proposal; and if such bidder neglect, or refuse to accept the same at his bid, that the said bidder with his sureties, shall be liable to the State for the difference between the amount of such bid and the amount of the bid of the person to whom the contract for furnishing the materials, and executing the printing and binding shall be awarded after such neglect or refusal. It should be further required that every such Bond to be considered should be accompanied by a certificate of the Clerk of the Circuit Court in which the sureties thereupon reside, or if they reside in the City of Baltimore, by a certificate of the Clerk of the Superior Court of said city, that the sureties are sufficient to secure to the State, to the amount of the penalty thereof. The Board of Public Works should be required publicly to open the proposals, at a time and place to be mentioned in their advertisement. If the Board are of the opinion that by reason of a combina-

tion among printers, or for any other cause the lowest and most favorable bid is still above a reasonable price if should be empowered to reject all the bids and to advertise again for proposals in the same manner as before, or to give out the contract without again advertising at a rate lower than that specified in the lowest of the proposals before received. In all other cases the Board shall be required to award the furnishing of all the materials, printing and binding, for the term of two years, to the bidder who may propose to furnish and execute the same at the highest rate *per centum* below the rates fixed in said law; and should the bidder to whom the same is awarded, neglect or refuse to accept the same at his bid, then the same should be awarded to the next lowest bidder, on the same terms in all respects, and so on as often as necessary, until a bidder accepts the same at his bid.

There should also be appointed by the Governor, a Superintendent of Public Printing, who should enter upon his duties, on the first Monday of December, 1877, and serve until the first Monday of May following. After the first appointment the Governor should by and with the advice and consent of the Senate, appoint such Superintendent, to serve for two years. He should be a practical printer and be required to reside in Annapolis, or Baltimore, and receive an annual salary not exceeding $1,000. It should be made his duty to receive and take charge of all the reports made to the Governor, by the heads of Departments, to be embraced in the Executive Documents, and have the same printed by the contractor; and to arrange all matter ordered to be printed by the Legislature, and supervise the printing thereof, causing it to be done in

a prompt and workmanlike manner. He should also be required to see that all paper used and binding done, is of the quality specified in the contract. He should be required to keep a record of the amount of work done by the contractor; to examine the accounts rendered by him, and compare the same with his record, and give a certificate thereof before payment is made; and should receive and receipt for all the documents printed for the Legislature, or the heads of Departments, and see that the numbers ordered are properly furnished. He should be empowered, whenever the contractor fails to comply with his contract in such manner as shall occasion inconvenience to the Legislature, or detriment to the public interest, to reject the work altogether and with the advice and consent of the Committees of the two Houses on Public Printing, during the session of the Legislature, or of the Governor, during the recess, employ another printer to execute such part of the work and charge any excess of cost to the contractor. Nearly all the provisions in regard to Public Printing which I have suggested, are taken from the Laws of the State of Pennsylvania. They have been found, as a rule, to work well, in that State, and I earnestly recommend their adoption here. If they do not after a short trial result in a considerable reduction of the cost of legislative and other public printing. they can be repealed and the people will thereafter acquiesce more willingly in the manner in which the contract for the legislative printing is now given out. The suggestion has been made in some quarters that Article 3, section 19 of the Constitution, which provides that each House "shall appoint its own officers" is a bar to legislation, such as I have suggested, but I do not so understand that section.

Extra Compensation Disapproved.

It often happens, that those who contract to erect public buildings for the State, apply before or after the completion of their contracts for legislative relief, on the ground that the contracts have proved unremunerative, or perhaps have entailed upon them positive loss. To permit a contractor, intentionally to take a contract at less than a paying price in the expectation of securing legislative relief, and then to grant such relief, is to do gross injustice to those contractors who never propose to erect public buildings at prices which they know will not yield a fair margin of profit. I do not anticipate that any such application will be made to you, as Article 3, Section 25 of the Constitution plainly forbids you to grant such relief.

Bribery of Officials.

Article 3, section 50 of the Constitution, makes it the duty of the General Assembly, "to provide by law, for the punishment by fine or imprisonment in the Penitentiary, or both, in the discretion of the Court, of any person, who shall bribe or attempt to bribe, any Executive or Judicial Officer of the State of Maryland, or any member, or officer of the General Assembly of the State of Maryland, or of any Municipal Corporation in the State of Maryland, or any Executive Officer of such Corporation, in order to influence him in the performance of any of his official duties; and, also, to provide by law for the punishment, by fine or imprisonment in the Penitentiary, or both, in the discretion of the Court of any of said officers, or members, who shall demand, or receive any bribe, fee, reward, or testimonial, for the performance of his official duties, or for neglecting, or failing to perform the same and, also, to provide by law

for compelling any person, so bribing or attempting to bribe, or so demanding, or receiving a bribe, fee, reward or testimonial, to testify against any person, or persons who may have committed any of said offences."

I am confident that it is only necessary for me to call your attention to the fact that the General Assembly has heretofore wholly neglected that duty, to secure its performance by you.

State Tobacco Warehouses.

Early in January last, two of the State Tobacco Warehouses, known as number one and number two, were destroyed by fire. These buildings were insured in several companies for $59,535.00, which sum has since been paid into the Treasury. The question as to the proper method of the inspection of tobacco, has of late elicited much attention and discussion, and the whole subject should be carefully considered by you. That abuses have crept into the administration of these Warehouses, in some instances, seems to be conceded on all hands. This has produced a strong feeling in some quarters in favor of the abandonment of the present system, and the substitution of private inspections. That the Warehouses should be self-sustaining must be generally admitted, and if the present system is to be continued, such a reduction of salaries and wages should be made, as will secure this result. I respectfully suggest another amendment to the law, extending the right to the Inspector to break each hogshead as often as in his discretion may be necessary, and to give as many bundles in the sample as in his opinion is required to represent all grades and kinds of tobacco contained in each hogshead, properly and proportionately. I am much inclined to the opinion, that confiscation to the State would not be too harsh, as a penalty to prevent false packing, which I am

informed is practised to a very great extent. I also recommend, that the agent for the State, when he has once received a sample from the Inspector, should be held to a strict accountability for any mutilation of the same, and upon conviction thereof, should be punished by fine or imprisonment, or both, in the discretion of the Court. It might be well in view of the fact, that two of the Warehouses have been destroyed, to test the practicability of private inspections to that extent, rather than rebuild these Warehouses at least until two years trial of private inspection shall have shown the effect of its practical operations. I will not attempt to elaborate my own views, but will content myself with suggesting that the information necessary for an intelligent solution of any difficulties encompassing the subject, can readily be sought and obtained by corresponding, through a competent committee, with intelligent parties representing the various interests involved.

Condition of State House.

During the last April Term of the Court of Appeals the Judges then upon the Bench, notified me that the floor of their Court room which is immediately over the Hall of the House of Delegates, was apparently giving away, and that they considered it dangerous to continue to hold the sessions of the Court therein. I summoned an architect from Baltimore, and had the building thoroughly examined by him. He not only pronounced their fears well founded, but informed me that the floor of the Executive Chamber was unsafe. Under his direction I had new timbers and iron braces put in, and all work done which was necessary to prevent a disaster such as occurred a few years since at the State House at Richmond. These repairs, which cost $2,711.45, I paid for, out of the contingent fund, placed at my disposal.

Every Marylander ought to take more pride in having each succeeding Legislature for many years to come assemble in our old State House, around which cling so many proud historic memories, than in having it replaced by any modern structure, however grand.

But, I need hardly remind you, the State House is out of repair in many respects, and its heating apparatus is in wretched condition. I earnestly recommend that a liberal appropriation be placed at the disposal of the Board of Public Works, with full power within the limits thereof, to make such repairs, alterations and improvements to the building, and the means of heating the same as will better fit it for State purposes.

While I suggest that this duty be placed upon the Board of Public Works, I feel bound to attract your attention to the impropriety of requiring of the members of that Board the performance of any duty not incidental to their respective offices, which will necessitate their frequent absence from Annapolis, and subject them to great labor, annoyance and personal expense, as was the case with the duties required of them in connection with the new Normal School Building and the House of Correction.

State House Circle.

As requested to do, by a series of resolutions passed by the Corporation of Annapolis, I call your attention to the fact that the bed of the street surrounding the State House, is not paved from the Governor's Mansion to Francis Street, and that the Corporation is desirous that the same shall be paved at the expense of the State.

The Great Seal.

By a Joint Resolution passed by the last General Assembly, the Governor was "authorized to have the Great

Seal of the State so altered, as to make it conform to the arms of Lord Baltimore, as represented on the title page of Bacon's Laws of Maryland, printed seventeen hundred and sixty-five, at Annapolis, by Jonas Green." Shortly after the General Assembly adjourned, I was assured by gentlemen who were instrumental in procuring the passage of that resolution, and who are well versed in heraldic lore, that the arms of Lord Baltimore are not accurately represented on said title page. Consequently I decided not to carry that resolution into effect until I had an opportunity to call your attention to it, as I now do.

Portraits for Independence Hall.

I selected Frank B. Mayer, Esq., a prominent Maryland Artist, to make a copy of the heraldic device of the State panel, and of the portraits which I was directed by Chapter 404, of the Acts of 1874, to have painted and framed, and contribute in the name of the State to be placed in Independence Hall. When the paintings were finished, I forwarded them to the proper authorities in Philadelphia, announcing the State's gift in a communication, which I deemed appropriate to the occasion. The committee of ladies who have charge of the museum in Independence Hall, expressed their gratification at the receipt of the heraldic device in a resolution of thanks, beautifully engrossed, and the Mayor and Select, and Common Councils of Philadelphia acknowledged the reception of the portraits by resolutions, handsomely engrossed and framed, which declared "that the portraits of Thomas Stone, William Paca and Thomas Johnson, Governors of Maryland, and three of the foremost patriots of the Revotion, be accepted and placed in Independence Chamber in

the places reserved for them by the Committee on Restoration," and, "that the thanks of the City of Philadelphia are due, and are hereby cordially tendered to his Excellency, Governor James Black Groome, and through him to the State of Maryland, for their munificent contribution to the National Portrait Gallery of Independenc Hall."

State Normal School Building.

The Board of Public Works, at an early day after the adjournment of the last Legislature, gave public notice of its desire to purchase a suitable site for the State Normal School Building. A number of lots—most of them improved by buildings—were offered to it. All of them were examined, but none approved. After an interval, the Board succeeded in finding a lot which suited its purposes. It is located in a beautiful section of the city, at the northwest corner formed by the intersection of Carrollton and Lafayette Avenues. It fronts one hundred and fifty feet on Lafayette Avenue, and one hundred and twenty feet on Carrollton Avenue, where it is bounded on the north by an alleyway ten feet wide. Upon this lot has been erected a brick building, which has few equals in architectural beauty in Baltimore. It fronts one hundred and twenty feet on Carrollton Avenue, and one hundred and five feet on Lafayette Avenue, and has at the intersections of the two fronts a tower which rises to the height of one hundred and seventy feet to the top of the finial.

It contains ten class rooms, a reception room, an assembly room, an apparatus room, a lecture room, a library, a laboratory, cabinet, gymnasium, cloak and retiring room, an office for the State Board of Education, and a residence for the Principal. It affords ample accommoda-

tion for three hundred students, to which number the school is limited by law, and in a word, possesses every convenience which modern science suggests as requisite and proper for a first-class school. It will be ready for occupation before the first of next March. There still remains an unimproved frontage of forty-five feet on Lafayette Avenue, which the Board thought it most prudent to purchase for the State, so as to enable it to enlarge the present building, should it ever so desire. The State can realize more than cost at anytime it may determine to part with this unoccupied frontage.

The Board of Public Works congratulates itself and the people of the State, that at an early day it will be enabled to deliver over to the State this magnificent building, with its heating apparatus and furniture complete, without having exceeded the original appropriation. This is a result so seldom accomplished with public buildings, that it deserves to be at least thus recorded for the imitation of future officials.

House of Correction.

Soon after the adjournment of the last Legislature, the Board of Public Works and Attorney General, entered upon the active discharge of the duties devolved upon them by the "Act to establish the Maryland House of Correction." After taking much trouble to inform themselves as to the requisites of a proper location, they gave notice of their desire to purchase a suitable site. A very great number of places were offered to them, many of which were rejected without examination, because the description given of them by the owners or agents for their sale, showed that they lacked some or all of the requisites deemed indispensable.

For several months the Board of Public Works and the Attorney General spent a large proportion of the time they could spare from the duties of their respective offices, in the attempt to secure the best possible location for the building. After examination of the various properties offered them, which they were led to believe from the descriptions given, might be adapted to the use intended, they unanimously selected a property on the Washington Branch of the Baltimore and Ohio Railroad, which they believed, combined to a much greater degree than any other, the requisites of a proper location. This property lies near Jessup's Cut, and is a fraction over fourteen miles from the Baltimore depot. It contains ninety-three and three-fourths acres, and cost $13,000. The reasons that led the members of the Board of Public Works to prefer the property selected to any other, will be found set out at large in a letter to the Mayor of Baltimore, bearing date on the tenth day of last March. A copy of that letter accompanies this message, and I am confident its careful perusal will satisfy any unprejudiced mind of the propriety of the site chosen.

Upon this property at the time it was purchased, was a dwelling-house, upon which an insurance was effected to the amount of $5,000 in the Royal Insurance Company of Liverpool, and the Ætna Insurance Company of Hartford, Connecticut.

This house has since been destroyed by fire. By agreement, the question as to the amount of the loss was referred to Arbitrators. The State's loss was fixed by them at $4,660, but has not yet been paid. As it is claimed that one of the Companies did not fully authorize

the reference, new proceedings will be instituted to secure a settlement.

After having selected the site, George A. Frederick, Esquire, was chosen as the Architect of the Building, and much time was necessarily consumed in deciding upon the plans therefor, and having them prepared. When the Architect's plans were presented to the State's representatives for their approval, it was evident that the appropriation made by the State would not suffice for the construction of the building designed. Accordingly, an advertisement was inserted in the Baltimore papers, asking proposals for the erection of the main building, and one wing and cross-wing, according to the specifications, which stated that all bricks to be used in the buildings would be furnished to the contractor free of charge. On the day named in said advertisement, the proposals were publicly opened at the Executive Chamber. In the hope of preventing sham proposals by irresponsible persons, it was decided to require every person, putting in a proposal, to accompany it with a guarantee of responsible persons, worth in the aggregate one hundred thousand dollars, that if the contract should be awarded to him, they would become his sureties in that sum for its faithful performance, and that all bids not accompanied by such guarantee should be rejected. Owing to the fact that the form of guarantee which was prepared by the Architect, and accompanied the specifications, did not express the meaning of the State's representatives, they determined to give all persons who had attempted to comply with it further time within which to secure and announce their sureties. Notwithstanding the precautions taken by the representatives of the State to guard against sham bids, it was found upon opening the proposals, that the three lowest of them, dated and post-

marked from Baltimore, were apparently of that character. They purported to be put in by firms. But the names of the individuals composing these firms were not disclosed, nor was the existence of the firms known to the State's representatives, nor to the persons offering the other proposals. Although an examination of the city register of Baltimore failed to elicit any information concerning them, letters were forwarded to the Baltimore Post-Office for them, notifying them to meet the State's representatives on a given day at Annapolis, when their bids would be considered. These letters were returned to the Executive Department, the Post-Office Department being unable to find the firms to whom they were addressed. A person claiming to be a member of one of these firms did, however, appear before the State's representatives, and furnished the name of his partner, and asked further time to satisfy the State's representatives of his firm's ability to procure the bond required by law. That time having elapsed, at his request a still further postponement was granted. After considerable delay, the representative of this firm appeared before the State's representatives and declined to accept the contract at the bid of said firm, but proposed to take it with a modification, in the interest of said firm, of the character of stone to be used, at a new bid $500 lower than the next highest bid. This proposition was rejected, and Mr. John Q. Codling, of Baltimore county, whose bid of $187,000, was the next highest, was notified that he could have the contract at his bid. After a brief delay, he signed the contract submitted to him by the State's representatives, and which had been prepared with great care, with a view to fully protecting the State's interests, and delivered the bond required by law.

The building, as placed under contract, is large, sub-

stantial, and well relieved, not extravagant in its decorations, but sufficiently ornamented to avoid meagreness of mass. It is so located on a large plateau, which rises by a gentle slope from the railroad to an elevation of about fifty feet above its level, as to present an unobstructed view for a considerable distance each way to the passing traveller. The exterior facing will be of a good quality of sand brick, relieved by granite trimmings. The major part of the building, and especially the prison wing, which contains two hundred and forty cells, is designed to be fire proof. The entire building will be heated by steam, and thoroughly ventilated. The foundation and mason work of the first-story are completed, and a very large amount of materials—iron, stone, brick and carpenter work—are upon the grounds ready for use. The Architect is of opinion, notwithstanding frequent rains during the past summer and fall have greatly retarded the progress of the building, that it will be finished by the first day of September, 1876, which is the time specified in the contract.

The main building contains the superintendent's dwelling and all the offices and rooms which will be needed for the accommodation of the officers and visitors of the prison, when the same shall be enlarged by the addition of the other wing and cross-wing. Whenever, therefore, the State desires to do so, it can double the prison capacity of the building by the erection of this wing. This can be accomplished at an outlay, much less than the cost of the present building, if the contract be given out upon terms as favorable to the State as the present contract. Maryland would then have the cheapest and best House of Correction of its size in the United States. As the addition to the building can, whenever needed, be speedily con-

structed upon the plan already adopted, I would not advise any appropriation for its erection, until the part thereof now under contract has been completed and found in all respects adapted to the purposes intended.

The Act which provides for the establishment of the House of Correction needs some revision. Vagrants, habitually disorderly persons, and habitual drunkards can be committed to it by the Justices of the Peace, but no criminals can be sentenced to it by the Court, except those who "are liable under existing law to be sentenced to imprisonment for a period not less than three months, and not exceeding three years." This punishment is only provided for two or three offences of unusual occurrence. Section 13 of the Act provides that for each calendar month that the conduct of any prisoner therein is faultless, he or she shall be allowed a deduction of five days *from each month of the period of his or her commitment.* This is capable of a construction which would lead to results which I presume were not contemplated by the Legislature. The Board of Managers ought also to be required to receive prisoners from the counties in preference to those from the City of Baltimore, whenever the house is filled to one-half of its capacity by prisoners sent from that city. Unless the law be amended in this particular, there is great danger that Baltimore will furnish so large a proportion of the inmates of this prison as practically to deprive the counties of the benefits which they ought to derive from its erection.

Investigation Urged.

A persistent attempt has been made in one newspaper of large circulation, published in the State of Maryland, to create the impression that the Board of Public Works and the late Attorney General have not faithfully guarded

the State's interest in the matter of the selection of the site and the contract for the erection of the House of Correction. If it be true that these gentlemen have from dishonesty, incapacity, or negligence permitted the State to be involved in pecuniary loss, it is due to the people of Maryland that their official delinquencies should be exposed. If the charges against them are wholly without foundation justice to the officials assailed requires that the reckless and unscrupulous character of the attacks to which they have been subjected should be made manifest. Therefore, I earnestly recommend that a Committee be required fully to investigate the whole matter of the selection of the site and the awarding of the contract for the erection of said Institution. I, also, recommend that this Committee be required to examine into every other charge which has been made from any responsible source, derogatory to the integrity and fidelity with which any official of the State has discharged the trust reposed in him. In every such investigation it should be directed to compel the attendance and examine upon oath every responsible person who has aided in any way in giving currency to the charge under examination.

If any such person is in possession of any fact tending to prove any such charge, the public interest demands that he should disclose it; and he should not be permitted, with the charge unretracted, to shelter himself behind any pretence for not doing so. Honest officials have nothing to fear from the most rigorous examination into the condition of their departments. On the contrary it is for their interest that there should be periodical investigations of their accounts, as otherwise important vouchers and other papers necessary to justify their disbursements and vindicate their official integrity might after the expiration of their

official terms be abstracted by others, and the fact that they ever existed denied. I am sure that there is no high official in Maryland who will not second my earnest recommendation for a rigorous investigation, or who has any cause to fear it.

Maryland Hospital for the Insane.

Finding in the message of my predecessor to the last Legislature the opinion expressed that the effect of the Act of 1870, Chapter 200, and of the conveyance which was made in accordance with its directions, was to transfer the title to the magnificent buildings and grounds at Spring Grove, upon which the State had expended more than seven hundred thousand dollars to the President and Directors of the Maryland Hospital, as a private corporation, I, through one of their number, put myself in communication with the President and Visitors, and found entire willingness on the part of that body to declare and record, in the most explicit terms the absolute title of the State to the whole property held by them, and their own subordination as a charitable instrumentality of the State to the control of the Legislature at all times and in all respects. An instrument apt for such declaration has accordingly been prepared, submitted to and approved by the Attorney General, executed and acknowledged by the Corporation, and recorded in Baltimore county, where the property lies, and in the office of the Secretary of State at Annapolis. It will only remain for you, as suggested by the Attorney General to enact some appropriate legislative recognition of and assent to this declaration, in order to finally and satisfactorily dispose of the subject. Now that the President and Visitors have restored the title to the State, I have no hesitation in expressing the

opinion that you should do whatever is necessary in order to relieve the Hospital from its present burden of debt, and that as often as, notwithstanding good management, its ordinary receipts shall prove insufficient to meet its expenditures, it should receive aid from the State Treasury. Many of the States make extremely large appropriations for the support of their insane poor, and Maryland, I am confident, will never refuse to recognize the duty to provide for this helpless class of her population. Although there are four hundred and sixty-two insane paupers in this State, who are wholly supported at the public expense, this Hospital which is admirably adapted for their accommodation, and is excellently managed, is only filled to one half of its capacity. This is not as it should be. The cost *per capita* would be greatly lessened if it were filled to its utmost capacity. I desire to express my unqualified approval of the suggestion contained in the message of my predecessor to the last Legislature that "some legislation should be had compulsory in its character, by which the County Commissioners and other authorities, having the care of pauper lunatics, should be required to select such persons who, in the judgment of competent physicians, can probably be cured, and send them to this Institution, where one half of the expense of the board and care of the patient should be charged to the State, and the other half to the County or City, from which the patient is sent."

Maryland Inebriate Asylum.

It is recognized as one of the fundamental principles on which society is based, that it is bound to provide for the physical wants of those of its members, who either from extreme age or youth, or from bodily or mental infirmity,

are unable to supply those wants, and have no natural guardian capable of relieving them. Whenever a duty devolves on society as a whole, the State, which is the agency through which society discharges its obligations, may properly be required to perform it. Recognizing the soundness of this principle, our State has made liberal provision for the support and education of those of her citizens who are deaf and dumb or blind, and has expended a very large sum in providing a Hospital for the accommodation of her insane, while she has extended some aid to the Maryland Inebriate Asylum, a Corporation, chartered under the Act of 1860, chapter 386. The Courts of the State are clothed with the very important power, which might be more generally exercised with good results, of committing habitual drunkards to this asylum, which succeeds in reforming and making useful citizens of a considerable portion of those who are subjected to its treatment. Its report for 1875, has not yet been laid before me, but I have been informed unofficially, that the finances of this Institution have become so embarrassed that it has been compelled to suspend temporarily, and will appeal to you for aid to enable it to resume the work. Maryland was one of the first States to make any provision for the care of her inebriates and it would be a cause for regret, if at this time, when this subject is exciting general interest, she should permit her experiment to fail. If the Legislature extends aid to this Asylum, its Trustees propose to make to the State an absolute deed of its preperty, consisting principally of valuable buildings and a farm of thirty-eight acres, situated about five miles from Baltimore city, and upon which they claim that the State can at any time it desires to dispose of them realize more than the whole appropriation necessary to liquidate the asylums indebtedness.

The information in my possession is not definite enough to justify me in making any specific recommendation, but I ask that you will give that careful consideration to the claims of the Asylum upon the State's bounty, which from its philanthropic character it should receive.

Deaf and Dumb Asylum.

During the month of October last, I visited the Maryland Institution for the Education of the Deaf and Dumb. As much of the appropriation made by the Legislature at its last session, as was required for that purpose, has been applied to the completion of the new building, according to the plan originally adopted, and the residue thereof has been, and is being expended in furnishing it, and in enclosing and ornamenting the grounds. The building is excellently adapted to the uses intended, is suitably furnished, and possesses considerable architectural beauty. At the time of my visit, there were eighty-nine children receiving instruction in the Institution, under teachers who seemed thoroughly competent to impart it. It is the desire of the Board of Visitors to prepare the pupils to earn a livelihood, and become useful citizens after leaving the Institution. With this view, some of the males are being taught the trade of shoemaking, and the females needlework. There are, as shown by the last census, in this State one hundred and seventy-five deaf mutes, between the ages of nine and twenty-one years, who can be admitted to this Institution. As it possesses ample accommodations for one hundred and fifty pupils, it is hoped and believed, that when the people of the State become more generally aware of its existence and purposes, a much larger proportion of the unfortunate class, whose condition it is intended to ameliorate, will

be enrolled among its inmates, and enabled to avail themselves of the benefits of this noble charity. I cheerfully recommend the continuance of the usual appropriation for its support.

Institution for Instruction of the Blind.

The amount paid to the Treasurer of this Institution for the maintenance and education of State Beneficiaries for 1874, was $12,075.00, and the number of Beneficiaries for that year, 46. The amount paid to the Treasurer for 1875, $13,650, and number of Beneficiaries, 51. These were supported by the State, either in part or entirely.

The Maryland Penitentiary.

The Report of the President and Directors of the Maryland Penitentiary for the fiscal year 1875, shows that under its present excellent management, its earnings exceeded its expenditures in the sum of $1417.96. This result was achieved notwithstanding the convicts were supplied with under-clothing more liberally than heretofore, and the price per hundred weight paid for beef and bacon was largely in excess of the preceding years. The earnings having for three successive years been in excess of the expenditures, the Penitentiary may now be fairly regarded as self-sustaining. I desire to express my earnest concurrence in the recommendation contained in the Report, that a system of abatements be adopted by law, by which a prisoner will become entitled to a deduction in the term of his sentence for every calendar month during which no charge of misconduct is entered against him on the books of the institution. This law might declare that in case of subsequent gross misconduct, the prisoner shall

in the discretion of the Board of Directors, forfeit the whole or any part of his time, so gained. Such a law, besides providing the prisoners with an incentive to good conduct, would tend greatly to relieve the Executive from the annoyance incident to applications for pardons, many of which are now based largely upon the alleged excellent conduct of the prisoner whose release is sought. If the law itself established a rate of reduction in the period of imprisonment to be made for good conduct, petitions for pardons based solely on that ground, could hardly be laid before the Executive with much hope of success. I have exercised the pardoning power more sparingly than any of my predecessors of late years. The number of persons pardoned out of the Penitentiary during the seven years preceding my administration has averaged seventy-nine a year. Up to the end of the fiscal year, a period lacking three days of twenty-one months, I have pardoned but thirty-eight, and a number of these were pardoned but a day or two before the close of their terms, to restore to them the right of suffrage.

House of Refuge.

Accompanying this Message is the Report of the Managers of the House of Refuge for the year 1874, made to the Governor in the recess of the Legislature. Their report for 1875, will be transmitted direct to you at an early day of your session.

Revision of Criminal Laws.

Crime is repressed rather by the certainty than the severity of its punishment. I have long been of the opinion that a greater certainty of the conviction of persons guilty of offences, which the Courts must or may under

existing laws punish with death, would be attained if the laws should be so amended as to permit the jury in every such case, at the time of rendering their verdict, to fix the penalty to be inflicted, whether of death or imprisonment for life or for a term of years. Such a law is in force in several of the States, and is found to work satisfactorily.

The Courts of this State, having criminal jurisdiction, are empowered in their discretion to order colored minors under the age of sixteen, convicted of felony, to be removed to and confined in the House of Reformation, when there is room therein to receive them. But there is no provision applicable to those misdemeanors punishable in adults with confinement in the Penitentiary, which authorizes the Courts to exercise a like discretion in the punishment of colored minors convicted thereof. This seems to me to be an omission in the law which you should supply. The Courts are also authorized in their discretion to order the removal of white minors under the age of sixteen, convicted of felony, to the House of Refuge, when it has room to receive them, but I am aware of the existence of no law which allows such removal of a white minor between the ages of fifteen and sixteen, convicted of a misdemeanor, punishable in an adult with confinement in the Penitentiary.

In fact the Criminal Code of the State needs careful and thorough revision. In many cases the punishment it prescribes is not at all proportioned either to the character of the particular offence, or to the penalty affixed to other offenses of like grade. He who commits manslaughter may be fined any trifling sum, while he who steals his neighbor's property to the amount of five dollars, is liable to fifteen years imprisonment in the Penitentiary. The thief who takes any article worth less than five dollars,

may escape with a day in jail, while the person who receives it from him, knowing its stolen character, cannot be sentenced to less than eighteen months in the Penitentiary and may be to a term of ten years. The adulterer can only be fined ten dollars, while the perjurer's sentence must be from five to ten years in the Penitentiary. Instances might be multiplied.

The engrafting of the House of Correction, which will be ready for the reception of prisoners before the next session of the Legislature, upon our prison system, increases the necessity of the revision suggested, as our criminal law should clearly specify what character of offenders shall be confined in it and the terms for which they may be confined. I would suggest the appointment at a moderate fixed compensation of a commission composed of lawyers, thoroughly familiar with the workings of the Criminal Laws of the State, to prepare a Criminal Code, and submit it to the next Legislature for its approval or rejection. In the meantime, to relieve the judges from the necessity of inflicting punishments which they may deem excessive, I suggest that a law applicable to all offences, punishable with imprisonment, be passed, abolishing all minimum terms of incarceration, but leaving all maximum terms unaltered.

Imprisonment for non-payment of Fines.

Chapter 59, of the Acts of 1874, provides for the release from custody, after a limited term of imprisonment, of any person who has been committed to jail for the non-payment of any fine and costs, not exceeding one hundred and fifty dollars, upon proof to the satisfaction of the tribunal imposing such fine and costs, that he or she is unable to pay the same. I recommend that this

Act be so amended, as to provide upon like proof, a remedy in every case of imprisonment for the non-payment of any fine and costs, however large. The Congress of the United States having passed a General Bankrupt Law, the provisions of Article 48, Section 21 of our Code of Public General Laws no longer afford such remedy.

Apprentice Laws.

The Laws of the State relating to the binding out of apprentices, should be carefully revised. They ought to contain no distinctions, as to the circumstances under which they can be bound out, and the terms of their indentures, between children of the white and colored races, but ample provision ought to be made therein for the maintenance, comfort and education of both white and colored apprentices. The failure to abolish these distinctions years ago, has resulted, in many instances, in the indentures of colored apprentices being set aside by the Courts of the State.

Orphans' Court.

I suggest that our Orphans' Courts be given the same means possessed by the Circuit Courts, for the enforcement of their judgments, decrees and orders for the payment of money and of their awards of costs. They are now forced to resort to attachment and sequestration or attachment and fine, which are most unsatisfactory remedies.

Wild Fowl.

Chapter 54 of the Acts of 1872, which regulates the shooting of Wild Fowl in some of the waters of the State, needs some revision. One of its sections is inter-

preted by many as forbidding any person from shooting at Wild Fowl within half a mile of the Cecil and Harford shores, north of a certain line, from a boat of any description. There would seem to be no good reason for forbidding the use of any boats within these or any other waters, except sink-boats and sneak-boats, and the Legislature, probably, never intended to forbid the use of boats of any other description. It might also be well to allow shooting from sink-boats and sneak-boats, after the first of December, during the gunning season, on Saturdays, in addition to the days now allowed by law, and to abolish or reduce the amounts now charged for licenses, and do away with the special police, and let all warrants issued for the arrest of offenders under this Act, be directed to the Sheriff or some Constable of the county, where the offender is supposed to be.

Justices of the Peace for Baltimore City.

By the Act of 1870, Chapter 45, the number of Justices of the Peace for Baltimore City was increased to forty-four. The business of that city is not sufficient to employ the time and give an adequate support to that number of Justices. The consequence is, that few men of superior capacity and qualifications are willing to accept these positions, and that the appointing power is often constrained to bestow them upon inferior men, some of whom are accused through the press of resorting to improper acts to increase the emoluments of their offices. To remedy this evil, and enable competent appointees to secure a suitable maintenance, without having recourse to practices of doubtful propriety, I suggest that the Act of 1870 be repealed, and the number of Justices for the City of Baltimore be reduced to twenty, one to be taken

from each ward. I would suggest a still further reduction in their number, but for the fact that Section 42 of Article 4 of the Constitution seems to contemplate the appointment of at least one Justice from each ward of the City.

State Board of Education.

An abstract of the Report of the State Board of Education for the year ending September 30th, 1875, has been forwarded to me. The full Report will be prepared and submitted to you at an early day of your session. The abstract furnished me shows that there has been a steady improvement in every department under the control of the State Board. There has been an increase over the preceding year in the number of different pupils of 4,109, and in the average daily attendance of 2,535. Seventy-nine new School Houses have been built during the year at a cost of $66,802.66. The total receipts from all sources, including balance on hand at the beginning of the fiscal year were $958,244.32, and the expenditures aggregated $924,758.19, being an increase in the total receipts over the preceding year of $52,130.58, and in the aggregate expenditures $41,317.50. These figures are exclusive of Baltimore city.

The Board being of the opinion that the efficiency of the School system is more likely to be increased by continuity of action and the feeling of permanency thus produced than by frequent attempts to improve the law regulating it will not ask for any important change in the School law. Such improvements as it may suggest will be the outgrowth of the present system and not experimental deviations from it. It will attract attention to the necessity of some legislation for the purpose of definitely ascertaining the number of children of a School-

going age who are, and the number who are not attending Schools of some kind. It will also suggest the necessity of a readjustment to suit existing circumstances of the donations now annually made to Colleges and Academies. These donations have been continued from a time when there were no Public Schools in our State; and one of the conditions upon which they were created was that the Institution receiving such aid, should give free tuition to at least one pupil, for every $100 received from the State.— There is great force in the suggestion that no good reason longer exists, now that there are efficient Public Schools in every part of our State, why the State should pay $100 each a year for having children instructed at an Academy or in the preparatory department of a College, in the rudiments of learning, which can be better acquired at a district School; and that hereafter these donations should only be made, in proportion to results actually attained, to Institutions giving strictly Collegiate and Academic instruction.

In my opinion every such Institution receiving a donation from the State, in addition to the requirements of the present law that it must select the number of children to be educated, free of tuition fees, from among the poor children of the county in which such Institution is located, having due regard to the pecuniary situation of the persons selected, should be required to give the preference to those children who shall have mastered the course of study, taught in the common Schools of that county.— Thus these Institutions may be made to supply measurably the place of high Schools in the counties where they are located.

The Board suggests, among other things, the necessity of some legislation, requiring the County Commissioners to fund the school debt in those counties where the School

Boards are unable to extricate themselves from its burdens, and to forbid the School Boards hereafter to contract debts beyond a certain limited amount. It also suggests that in the legislative off years the copies of the School Report, (except a designated number to be reserved for certain officials,) should be delivered to the State Board of Education for distribution; and that the educational interests of Maryland should be represented at the Centennial. In all these suggestions, I most heartily concur.

The Agricultural College.

The Agricultural College was not at the close of the collegiate year in a prosperous condition, but it has recently been reorganized on a basis which promises better results than have been accomplished during the past. The faculty now consists of a President, who is also Professor of Mathematics, a Professor of English Literature and a Professor of Agriculture; and two Assistant Professors, one of whom acts as Professor of Applied Mathematics and the other as Professor of Natural Sciences and Chemistry. The aggregate salaries paid by the College to these gentlemen, amount to but $5,200 for the scholastic year. The preparatory department has been abolished and there are but forty-seven students in actual attendance on the collegiate courses. The Act of 1865, Chapter 178, declares that the leading object of the College shall be "to teach such branches of learning as are related to Agriculture and the Mechanic Arts." It is the endeavor of the present management, while complying with this requirement of the law, to make the curriculum such that the College shall be accessible to all, and form a connecting link between the Public Schools of the State and the Johns Hopkins University. All the classes embrace among their studies, branches relating to Agriculture, such

as Botany and Chemistry. There is also a special class composed of all the members of the more advanced classes, which is being instructed in practical Agriculture. "The members of this class are taken over the farm and practically instructed in the care of sheep and cattle, making roads, bridges, embankments, draining lands and the winter care of a farm; and when spring opens and farming operations commence all classes will be taken into the field and practical labor encouraged." The total debt of the College, including a note for $3,000 payable by it during the present month of January, was on December 8th, 1875, $12,109.40. The present management confidently expect to pay off nearly $9,000 of this debt before September next without the aid of any special appropriation from the State. I am therefore not inclined to second the recommendation of the State Board of Education that the State, which is now a half owner in the property of the College purchase the interest of the individual stockholders and place the College under the exclusive control of the State Board of Education. That step can without detriment to the interest of the State, or the cause of education, be delayed for two years until the result of the present attempt to improve the condition of the College is ascertained.

My predecessor called the attention of the last Legislature to the fact, that under existing laws, there was some doubt as to whether the State Board of Education, or the Governor, President of the Senate, Speaker of the House and Principal of the Normal School were Trustees on behalf of the State in the Agricultural College Board. That Legislature took no steps to remove that doubt. The result is, that at some meetings of the Trustees, the State is represented by gentlemen, who can only assert their individual claim to sit in the Board on a construction of the

law, which, if correct, would exclude some of their colleagues. Under these circumstances, although the Trustees on the part of the individual stockholders, always recognized me as a Trustee on the part of the State, I felt a delicacy about acting as such, and asked the opinion of the late Attorney General, who declared the State Board of Education was entitled to represent the State. Since that time, although the College Board continue to recognize me as a member, and even elected me its President, I have refrained from attending its meetings. You should pass an act repealing so much of all existing acts as designate the Trustees on behalf of the State, and should declare explicitly who shall hereafter represent the State.

St. John's College.

The report of St. John's College to the last Legislature, shows that it was then embarrassed by a debt, amounting to $15,540. This has since been but slightly reduced. There is no hope that this debt can be liquidated, and the College placed once more on a sound financial basis, except by aid from the State Treasury. A bill granting such aid passed the Senate shortly before the close of the last session, but was not acted on in the House. While Maryland is fostering with such a liberal hand her common schools, she may well make one more effort to promote the prosperity of this venerable seat of classical learning, and to attract to it the flower of her youth. If you can devise any legislation which will enable St. John's successfully to rival its Northern sisters, and will induce Maryland parents to look upon it as the favorite Institution for the education of their sons, you will entitle yourselves to the gratitude of your State.

But while relieving the College of its present burden of debt, you should adopt measures without interfering with

its regular Collegiate course, looking to its further development as the male Normal School of the State. In accordance with the Act of 1872, Chapter 393, the College already admits, free of charge, for both board and tuition, two students from each Senatorial District, on condition that they shall teach for two years within the State after leaving College. In order that these students may receive the full benefit of a College education, you should require what has not always been the case heretofore, that they should be prepared to enter the Freshman class at the time of applying for admission. These free scholarships might be made prizes for the most advanced scholars in the public schools of their counties who are willing to devote a considerable time to teaching after leaving College. In this system there exists the nucleus of an efficient Normal School, which only needs the fostering care of the State to develop it into a school of the highest grade for the instruction of teachers. The details of such an organization might readily be arranged between committees of your respective Houses and the Governors and Visitors and the Faculty of the College. Should the Normal School feature be engrafted on the College it would be well to provide by law that the Normal School in Baltimore which is attended by but few young men, shall hereafter be exclusively a Female School.

State Board of Health.

The State Board of Health is in its infancy, but the work it has already performed as shown by the statement furnished me of the matters of which its report to you will treat, demonstrates that it is capable of rendering very valuable services to the State, by pointing out causes detrimental to the public health and suggesting the remedies; and by collecting statistical information in regard

to all hygienic and medicinal matters. The Alms Houses and Jails throughout the State have been visited and their condition carefully ascertained, and many sanitary investigations have been prosecuted. The results of these investigations will be fully made known to you in the Report of the Board which will be made up of a series of thoughtful papers now in the course of preparation. As these papers will emanate from able and experienced Physicians whose only object in serving as members of the Board of Health is to procure valuable vital statistics and to improve the sanitary condition of the State, I commend them to your most careful consideration.

State Vaccine Agent.

The report of the State Vaccine Agent, for the year 1875, will be laid before you and found to contain valuable statistical information.

Fisheries.

The importance of this branch of industry to the material resources of the State, intersected as it is by the Chesapeake Bay and its numerous tributaries, cannot be overestimated. Impelled by the example of the National Government and several of the older States in extending a fostering hand for the protection and culture of fish, the last Legislature made provision for the establishment of a Commission of Fisheries. The interesting report of the Commissioners, which accompanies this communication, shows, that their duty has been discharged with intelligence and economy. It is not to be expected that any practical results will reward the operations of the Commission until a sufficient length of time has elapsed for the development and return of such young fish as the Shad

and Salmon, that have been hatched and turned loose in our waters. From the light thrown on this subject by the results achieved in other States, it would seem judicious to increase the provision for the artificial culture of fish, and particularly to facilitate their ascent of our rivers by providing for adequate fish-ways.

The Commissioners earnestly recommend that better provision be made for the enforcement of the fish laws, upon the due observance of which depends the entire success of their operations. I would therefore recommend that the State Oyster Force be required during the fishing season to supervise the navigable waters of the State, and assist in enforcing the laws. As the oyster season closes a month before the fishing season closes, this additional service would not interfere with the purposes of its organization. For the more thorough and intelligent enforcement of the laws, I would recommend that the Fish Commission be represented in the Board of State Fishery Force.

At the last session of the Circuit Court for Cecil county, which is one of the counties of the State most interested in Fisheries, the Grand Jury called the "attention of the Honorable Court to the wanton and unnecessary destruction of fish in our rivers, by means of seines, fish-pots, hoop-nets and staked-nets," and suggested that the evil be averted if a remedy existed within the jurisdiction of the Court. This action of the Grand Jury the Court afterwards laid before me, with the request of Court and Jury that I would call your attention to it, which I do, and ask for it your most careful consideration.

The Militia.

The report of the Adjutant General will be laid before you. The Maryland National Guard, as now organized,

consists of a regiment of infantry, a regiment of light artillery, a battalion of cavalry, and an independent company of infantry in Cecil county This establishment, though small, is capable in any sudden emergency of rendering most effective aid to the authorities of the State in the preservation of the public peace. In August, 1874, I had some reason to apprehend a popular outbreak on the occasion of a public execution in one of the counties. As a precautionary measure, I ordered two companies of the Sixth Regiment to proceed to the point where the execution was to take place. So quietly was the movement effected, that they reached their destination before it was generally known that they had left Baltimore. The fact that no disturbance took place, and that in all probability none would have occurred had the citizen soldiery remained at home, does not detract from the force of this incident as illustrative of the importance of having a well organized body of militia among us, whose services can be called into requisition by the State whenever the public peace is threatened. The Fifth Maryland Regiment has already taken rank as one of the most famous volunteer organizations in the Union, while the Sixth, though overshadowed by its more showy competitor, is in all respects a regiment upon which the people of our State may look with pride. Applications from various parts of the State have been received at the Adjutant General's office for permission to raise companies, but they have been necessarily refused, because the present appropriation is consumed in maintaining the existing organizations. The immediate wants of these organizations have, however, of late been so well provided for, that it is hoped that it will be practicable to

authorize the raising of several new companies in different sections of the State during the next two years.

While desiring to see you exercise a judicious economy in regard to all appropriations, I think you might, with propriety, somewhat increase the sum annually allowed for the support of the militia. Any increase in that appropriation, however, ought only to be available for the organization, equipment and maintenance of companies outside of the City of Baltimore.

Amendment of the Constitution.

By Act of 1874, Chapter 364, an amendment of the Constitution of the State was proposed. As required by the 14th Article of the Constitution, the proposed amendment was published in the several counties and the City of Baltimore, and voted on, at the election held in November last. In canvassing the votes cast for and against the proposed amendment it was found that it was adopted by a very large majority, and its adoption was declared by Executive Proclamation.

The Legislature made no appropriation for the cost of the publication of this proposed amendment or proclamation making known its adoption, and for such publications there is an amount of indebtedness for which there is no provision. It is therefore suggested that a sufficient appropriation be made to meet this indebtedness.

Sectarian Appropriations.

There exists a strong and growing feeling among a considerable portion of the people of the State, against the well-established practice of making appropriations from the State Treasury to aid private charitable and

sectarian institutions. I do not share that feeling. Many of these institutions are doing the State very valuable service in maintaining and educating classes of its citizens, who might otherwise become a charge upon the public. To withdraw the State's aid from such as these, would cause some of them great embarrassment, and impair their usefulness. At the same time care should be taken before renewing these appropriations to ascertain that the Institutions asking aid from the Treasury are deserving of the State's bounty, and the tendency should be to curtail, rather than increase these gratuities, and to prepare the way for their ultimate abolition. It might be well to provide by law, that hereafter no such appro priation shall be payable, until the Institution, in aid of which it is made, shall file with the Governor and the Comptroller its consent that the Governor and Members of the State Board of Health shall have the right to visit and inspect it at all proper hours of the day, and that it will make a full report of the character, extent and condition of its work to the Governor before the first day of December in each year.

The Boundary Question.

Immediately upon my approval of Chapter 295 of the Acts of 1874, which authorized and requested me to appoint one or more Counsel to represent the State in the matter of the Arbitration for the settlement of the boundary line between the States of Virginia and Maryland, I notified the Hon. S. Teackle Wallis of my desire to secure the services of himself and the Hon. Isaac D. Jones, as Counsel on behalf of the State. A few days later he informed me by letter of the reasons which constrained him to decline the appointment. I took no further action

in the matter until the early part of June following when I tendered to the Honorables Isaac D. Jones and Wm. Pinkney Whyte, the appointment as joint Counsel to represent this State. These gentlemen announced to me their unwillingness to take charge of so important and laborious a professional duty without some positive understanding as to fees and suggested that I should enter into a contract with them of like character as the one between Governor Bowie and the gentlemen employed by him as Counsel in the cases against the Baltimore and Ohio Railroad. I did not feel at liberty to enter into a formal contract, lest it should look like an attempt to forestall legislative action, and so informed them. But after fully considering the importance of the questions to be passed upon by the Arbitrators, the time and laborious research required for their proper preparation for presentation and in actually presenting them and the heavy personal expense likely to be incurred by the Counsel in attending meetings of the Arbitrators outside of the State of Maryland, I informed them that I considered the fee of $5,000 each which they claimed, a reasonable one, and that if they would accept and discharge the responsible duties of Counsel on behalf of the State, I would recommend to the Legislature the payment of that sum "as a reasonable amount for the services, loss of time, and expense incurred." The Hons. Jeremiah S. Black and William A. Graham, the Arbitrators named in the Acts of the States of Virginia and Maryland, held their first meeting at the City of Washington, on June 25th, 1874. This meeting was attended by the Counsel of the respective States, and it is understood that the Hon. Charles J. Jenkins, was then selected as the third Arbitrator, although the public announcement of his appoint-

ment and acceptance was not made for some time afterwards. After this and before the formal organization of the Board, the Counsel of the respective States held meetings in Washington and Baltimore, and succeeded in effecting an agreement in regard to the introduction before the Arbitrators, of the statements, maps, depositions and historical facts heretofore obtained by the Commissioners of the two States, who had failed to adjust the Boundary line in question, and also as to the mode of taking additional depositions.

On the 10th of May, 1875, all the Arbitrators met at the City of Washington, organized and entered on the active discharge of their duties. At this meeting six days were spent in hearing the opening statement of Counsel, in presenting the grounds upon which the claims of Boundary asserted by and on behalf of the respective States are placed. Meetings of Counsel were subsequently held at Richmond, Baltimore, Crisfield and Anancock, and much time consumed in the taking of depositions. All important testimony then known to Counsel having been obtained the Arbitrators and Counsel met for final hearing at Saratoga Springs, on the 28th of July 1875. There they continued in daily session, and had nearly completed the introduction of the evidence, and were ready to commence their final argument when further hearing was suspended by the sudden and fatal illness of the Hon. William A. Graham, who died at the Springs, on the 11th day of August last. The fact that this aged and eminent Statesman whose public and private virtues have long been the pride of his State, was engaged in the noble work of adjusting a long standing controversy between two States of our Union, whose desire is ever to preserve the most cordial relations, when far from his home, but at the post of

duty, and of honor, he was unexpectedly summoned from earth, should endear his memory alike to the people of Virginia and of Maryland.

The death of Governor Graham will make it necessary for the Legislatures of Virginia and Maryland, to pass concurrent amendatory Acts providing some plan for filling the present and any future vacancy which may occur in the Board of Arbitrators. These Acts ought to confer authority on the Governors of the two States jointly to appoint a proper person to fill every such vacancy. They ought also to provide for confirming all titles of owners of lands whose State relation may possibly be changed by the decision and award of the Arbitrators, and for securing all rights of property and of citizenship to all persons whose State relation may be changed, as fully to all intents and purposes as if they had always been citizens of the State with whose jurisdiction they may be left by the line of boundary which shall be adjudged and declared by the Arbitrators to be the true line.

When the vacancy in said Board of Arbitrators is filled, much of the work already done will have to be gone through again by the counsel of the respective States in order that the new Arbitrator may be fully informed as to the merits of the controversy. This will entail on the Maryland counsel much more loss of time, labor and expense than they originally anticipated. Under these circumstances I recommend that you allow them, in full settlement of their services and expenses, the sum of $6000 each, one-half to be paid now, and the other half when the long vexed question of boundary is settled by the award of the Arbitrators.

It will also be necessary for you to make an additional appropriation to defray the expenses incident to the Arbi-

tration, which have already consumed a large part of the sum heretofore allowed for that purpose, and it is worthy of your earnest consideration, whether you should not at this time make some appropriation to compensate the Arbitrators for the services already rendered. Whatever sum Maryland intends to allow for the services of Gov. Graham, should be voted at this session to his legal representatives.

Maryland Oystermen Arrested——Correspondence with Gov. Kemper.

During the month of September, 1874, I received information that an armed canoe, commanded by William P. Curtis, (or Custis,) an Oyster Inspector of the State of Virginia, had captured four canoes occupied and owned by citizens of Maryland, who were engaged in taking oysters in the Pocomoke Sound, within a mile of the shore of Somerset county, Maryland. I was further informed that on the same day, Thomas Riggin, another citizen of Maryland, who was also engaged in taking oysters in the same locality, was fired upon by the same armed canoe, and so severely wounded as to be rendered helpless, after which he was abandoned to his fate, and driven by the wind and waves upon the Somerset shore. This information was confirmed by a number of affidavits which were filed in the Executive Department about the 1st of October.

On the second of October I wrote to Governor Kemper of Virginia, calling his attention to the wrong done, by citizens of his State to citizens of Maryland. I also notified him that Maryland has always claimed for her citizens, and they have always exercised the right, to take oysters in common with the citizens of Virginia, in every part of the Pocomoke River, Sound or Bay, and that, if

my information was correct, that claim was never disputed until during the late war.

I respectfully requested him for various cogent reasons stated in that letter, to direct the release from imprisonment of the citizens of Maryland, arrested while taking oysters in the Pocomoke, and then in Drummond-town jail; and to order the restoration to their Maryland owners of the boats seized at the same time. I further requested "to be informed whether or not the Commander of said armed canoe in firing upon and severely wounding a citizen of Maryland under the circumstances already detailed, was acting under authority conferred by the laws of Virginia, or in excess of said authority and of his instructions." This letter was accompanied by copies of the affidavits filed in the Executive Office.

Under date of October 7th, Governor Kemper acknowledged my communication and notified me that he had "promptly directed an investigation of the particulars" to which I had called his attention and promised "as soon as the results of the investigation" could be obtained to reply fully.

Under date of October 10th, I received another communication from him, in which he informed me that the act of violence "perpetrated upon Thomas Riggin on the waters of the Pocomoke, is a flagrant violation of the laws of Virginia," and that he had "directed prompt and vigorous steps to be taken for the arrest and prosecution of the offenders," and was "employing all the authority of his office to effect the final discharge of the citizens of Maryland, held for trial in Accomac county." I immediately replied to that communication expressing my gratification at the promptness with which he had invoked the authority of his office to redress the wrongs of citizens of Maryland complained of by me.

On November 6th, having been officially informed that notwithstanding Governor Kemper's efforts to procure the release of the imprisoned citizens of Maryland, and the restoration to them of their property, the Court of Accomac county, had placed them on trial, and convicted three of them and sentenced each to pay a fine of $500 and to forfeit the vessel, tackle and appurtenances in his possession at the time of his arrest, while the fourth had only escaped temporarily because of a disagreeing jury, I addressed another communication to Governor Kemper, requesting that he would promptly exercise to their fullest extent such authority and prerogatives as he possessed "to procure the immediate release of the said citizens of Maryland, from the forfeitures imposed on them by the Court of Accomac county, and to prevent any further interference by officers or citizens of Virginia, with the citizens of Maryland, when engaged in common with citizens of Virginia," in taking oysters in the waters of of the Pocomoke. In that letter, I also informed him of the death of Thomas Riggin.

On November 10th, Governor Kemper replied that he had already gone as far as the power of his office constitutionally extended in his efforts to effect the discharge of the citizens of Maryland and the release of their property. That the laws deprived him of the power to remit fines and amercements, but that he had requested the Attorney General to repair at once to Accomac county, and employ all available means to secure the immediate release of the citizens of Maryland from the forfeitures imposed on them, and that on his return I should be informed of the result of his efforts. A few days later, I was informed of the release of our citizens from imprisonment without paying the fines and that an appeal had been entered in the cases against them with a view to securing to them the restoration of

their property. In the meantime as guarding the vessels would be very expensive, an arrangement was effected satisfactory to the counsel, representing our citizens, by which the vessels were sold by the Sheriff and bought in at an under value, by their owners. The purchase money is held by the Sheriff to await the result of the appeal taken in the cases, of which no final disposition has as yet been made.

On the 30th of November, Governor Kemper addressed me a communication, notifying me that he had been informed by communications received from Accomac county that armed vessels belonging to the State of Maryland, were occupying a portion of Pocomoke Sound and forcibly excluding citizens of Virginia from the waters so occupied and asking to be fully informed in the premises at my earliest convenience. In that letter he proposed to recommend to the Legislature of Virginia, the passage of an Act expressly extending to the citizens of Maryland, the privilege of taking oysters in all waters claimed by both States including Pocomoke River, Sound and Bay, until the true boundary line shall be established; but with the understanding that the State of Maryland shall by like Act accord the same protection to citizens of Virginia in the enjoyments of the same benefits.

To this letter of Governor Kemper, I replied under date of December 4th, assuring him that immediately upon the receipt of his letter of the seventh of October, the Commissioners of the State Fishery Force instructed the Commander in Chief of the vessels composing that force, not to permit any of said vessels to interfere in any way with citizens of Virginia, taking oysters in any part of the waters of the Pocomoke, and that since the eighth of October, there had been no such interference. I further informed Governor Kemper, that the Maryland Legisla-

ture would not be in session until January, 1876; but that I had not the slightest doubt that, when it assembled, it would recognize the citizens of Virginia as privileged to take oysters in the disputed waters to the same extent as the Legislature of Virginia should recognize the citizens of Maryland as so privileged. The Legislature of Virginia at its session of 1875, having passed an Act on this subject, I know I have but to remind you of the pledge made by me for Maryland, in the interests of her oystermen, to have you promptly redeem it.

Throughout our correspondence, as the synopsis given of it shows, Governor Kemper showed an earnest desire to protect our citizens in their persons and property from that he regarded as an illegal prosecution, and to strengthen the friendly relations between Virginia and Maryland. The full correspondence will be laid before you.

The Centennial.

You have crossed the threshold of the year which completes the century, since in the neighboring City of Philadelphia, a band of undaunted patriots, representing struggling and sparsely settled colonies, weak in all those material resources which constitute the foundation of a country's greatness, and justify the pride and pomp with which it asserts its rightful claim to be recognized among the great powers of earth, but strong in the belief in the justice of their cause, and in their confidence that the Great Arbiter over all would supply their weakness with His Almighty strength, proclaimed to the world that immortal instrument in which they declared "that these United Colonies are, and of right ought to be Free and Independent States." But high as may have been the hopes of the members of that patriotic assembly as to the

future of the infant Government, which by their act was called into existence, and grand as may have been the visions of its growing greatness, which some by their prescience were enabled dimly to behold, it is safe to assume that not even the wisest and most enthusiastic among them all dared to hope that on the first Centennial Anniversary of its birth, it would stand among the Great Powers, the peer of the proudest and grandest of them all in every thing that constitutes a country's power and glory. And yet all this has been accomplished, and in the pride of a vigorous youth, which gives promise of greatly increased strength and growth before the full powers of ripened manhood are reached, our country has determined to call around it all the Nations, to join with it on the spot made sacred by its birth, in commemorating that auspicious event and in exibiting, in comparison with that of our country, the development of their natural resources, and their progress in those arts which benefit mankind. "Thirty-eight foreign Governments for themselves, and their many provinces, colonies and dependencies, have in the spirit of true comity signified in most friendly terms their purpose to participate," in what, it is now absolutely certain, will be the grandest International Exhibition which has ever yet been held.

Most of the States of our Union have nearly completed their arrangements to be properly represented, and about one-half of them have engaged to erect on the exhibition grounds ornamental buildings, in some cases large enough to hold the exhibits of their resources and products. Maryland possesses a vast wealth of natural resources, such as soils, woods, minerals, cereals, and other products of her soil, while her magnificent Bay, which is one of the principal physical features of

the State, contributes a great variety of delicious wild fowl, and an abundance of shell and other fish of excellent quality, as food for the human family. It is neither creditable to the patriotism or business sagacity of Maryland, a State which feels a just pride in the fact that she was one of the original colonies represented by noble sons who signed that immortal Declaration, that for years she has failed to respond to the invitation to exhibit specimens of her great and varied resources, where they will be inspected and admired by representatives of every civilized nation, and has entered upon the Centennial year, without having made the slightest arrangement to accept that invitation, and display those resources. But when it is realized that a duty which good fellowship and self interest alike require should be discharged, has not been begun in due season, partial atonement for its early neglect should be made, by the zeal and liberal spirit in which it is undertaken and pressed to a successful result. I, therefore, earnestly urge upon you, not to lose a day unnecessarily in providing by law for the appointment of a committee composed of citizens who have the success of the Centennial Exhibition thoroughly at heart, and who will devote their whole time to the effort to have the natural resources and progress of Maryland in the arts and all things else which tend to benefit mankind properly represented at the Centennial. This committee ought to be composed of gentlemen taken from both political organizations, and whom the whole people can trust implicity. It ought to have placed at its disposal a liberal appropriation to be expended at its discretion to further the object sought by its appointment, but should be required to furnish an itemized statement of all disbursements to the next Legislature.

Louisiana.

In compliance with a request contained therein, I will lay before you the resolutions adopted by the Legislatures of several of the States, in regard to United States troops being employed with the sanction of the General Government, to eject from the Legislative Halls of Louisiana, members who had been recognized as such by the body in which they were sitting. The indignation which this act aroused from one end of our land to the other, among men of all shades of political opinion, demonstrates that it needs no argument to convince you that it was an act in plain violation of the Constitution. A year has passed since its occurrence, and in the rapid course of events other questions have arisen, which demand a large share of public attention. But it would be dangerous to liberty, if a ruler who is inclined to disregard constitutional restrictions, and arrogate to himself despotic powers, should discover that the lapse of time can cause the people to forget any attempt to crush out the liberties of a State; and while the forms of a Republican Government continue to exist, it is never too late to characterize in fitting terms every such act of usurpation, and to warn the ruler not to attempt, and the people not to tolerate its repetition. Let Maryland then declare, in language not to be misunderstood, that, while at all times she yields a cheerful obedience to the Constitution and the laws made in accordance therewith, she stands ever ready to make common cause with her sisters against any ruler, who to gratify his personal ambition, or to secure a party triumph, attempts to trample upon the Constitution, and to assail the liberties of the people.

A Few Practical Suggestions.

I have now, as required by the Constitution, informed you of the condition of the State, and recommended for

your consideration such measures as I deem necessary and expedient. But before bringing this communication to a close let me urge upon you the necessity of examining carefully every Corporation Act which may be introduced into either House, to ascertain whether it proposes to create a corporation of the same general character as can be created under the Act of 1868, Chapter 471, or the Act of 1870, Chapter 476. If it does, then you should refuse to entertain it, because the plain language of Article 3, section 48 of the Constitution, will require the Courts of the State, whenever any such Act passed by you comes before them judicially, to declare it absolutely void. During the last session I was compelled to interpose the Executive veto in a number of cases, to prevent bills which were open to this Constitutional objection from being placed on the Statute book—I will not say from becoming laws. In every such case my veto was unanimously sustained, and yet the Legislature continued to pass bills which were obnoxious to the same Constitutional objection and to send them to me for my signature. After the session adjourned and when there was no opportunity for a careful examination of them a number of these bills came before me for approval or rejection. In all cases where from want of time to examine them carefully, or from any other cause, I was not entirely sure that they were of the same general character as those provided for in the general Acts, I allowed them to go upon the Statute Book. You should, however, bear in mind that unless you refuse to pass special Acts creating Corporations of the same general character as those which can be created under the general laws now in force, many persons having faith in the validity of your action will be induced to invest their means in these Corporations, and the Courts of the State will be driven to

the desperate alternative, as has already been the case in one of the Western States, of putting such a construction on the Constitutional provision as will alter its plain meaning, or of unsettling the ownership of millions of property. There are many other provisions contained in Article 3 of the Constitution, which if respected, tend to restrict legislation. Some of these may be and doubtless are what the Courts call directory, as contradistinguished from mandatory; in other words, they are of that character that while *the Legislature ought to regard them*, yet if it chooses not to do so the law cannot be set aside as unconstitutional. But the people would regard the Constitution as a more sacred instrument and would yield a more cheerful obedience to the laws, if Legislatures would refuse to pass, and Courts to sanction, any legislation of a character which the Constitution intends to discountenance.

You should also endeavor to press forward, perfect and pass as much of the legislation needed as possible before the closing days of the session. By a neglect of this duty preceding Legislatures have permitted many valuable bills to be lost and many improper Acts to be passed in the hurry and confusion incident to the near approach of their final adjournment, and have thus incurred the censure of their constituents. But there is an even more serious view of this matter. These Acts which are passed in the closing days of the session are nearly always engrossed and signed by the Governor in the presence of the presiding officers of the two Houses after the final adjournment of the Legislature. It has never yet been judicially decided in this State, whether or not the Constitution permits this to be done. Under a clause of the Constitution of the United States, very similar to that contained in the Constitution of Maryland, the power of

the President to approve bills after the adjournment of Congress has always been regarded as so doubtful, that he never attempts to exercise it.

Conclusion.

Now that in a few days it will become my duty, in obedience to the will of the people as expressed through the forms of law, to relinquish my exalted position as Governor of Maryland, to take once more my place as a private citizen, I cannot but recall with pleasure, not unmixed with pride, the fact that at all times, during my term of office, both at the seat of Government and elsewhere, I have freely granted a hearing to every resident of Maryland, however humble, who had a petition to present, a grievance to be redressed, or a suggestion in regard to any public matter to make. As to the little patronage of the Executive Office which it became my duty to distribute, I looked to my whole party for advice. As to all matters of public interest, I desired the whole people of the State to consider themselves my counsellors. If, then, the State has been the loser by the fact that any portion of her citizens did not aid me by their advice in reaching a correct conclusion upon any important matter, the fault was with those citizens, and not with me. But, while in season and out of season, all who desired it, have had free access to me, none have been permitted to obtain a controlling influence. The whole responsibility for the mistakes of my administration, whatever they may be, must rest, therefore, upon me, for all my official acts had the approval of my own judgment.

JAMES B. GROOME.